HLS 10RS-1790 ENGROSSED

Regular Session, 2010

HOUSE BILL NO. 873

BY REPRESENTATIVE PATRICIA SMITH

WORKERS COMPENSATION: Provides relative to workers' compensation

1 AN ACT 2 To amend and reenact R.S. 23:1170(A), 1171.1(C)(1), 1172(A), 1172.1(C), and 1172.2(D), 3 relative to workers' compensation coverage; to require an increase in penalties for 4 employers who fail to secure coverage; to provide for all fines collected to be 5 deposited in the Workers' Compensation Administrative Fund; and to provide for 6 related matters. 7 Be it enacted by the Legislature of Louisiana: Section 1. R.S. 23:1170(A), 1171.1(C)(1), 1172(A), 1172.1(C), and 1172.2(D) are 8 9 hereby amended and reenacted to read as follows: 10 §1170. Penalty for failure to secure workers' compensation insurance; assessment 11 and collection 12 A. In addition to any other penalty prescribed by law, any employer who 13 fails to secure compensation required by R.S. 23:1168 shall be liable for a civil 14 penalty, to be assessed by the secretary of labor executive director or his designee, 15 of not more than two hundred fifty dollars per employee for a first offense, and liable 16 for a civil penalty of not more than five hundred dollars per employee for a second 17 or subsequent offense. However, the maximum civil penalty for a first 18 offense shall not exceed ten thousand dollars for all related series of violations. All 19 civil penalties collected shall be deposited in the Office of Workers' Compensation 20 Administrative Fund established in R.S. 23:1291.1(E). 21

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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2	* * *
3	C.(1) If at such hearing, it is determined that the employer is in violation of
4	his obligation under R.S. 23:1168, the workers' compensation judge may fine the
5	employer up to ten thousand dollars in the manner provided pursuant to R.S
6	23:1170(A) and shall order the employer to secure workers' compensation insurance
7	and file evidence of coverage within ninety days of the order. Should the employer
8	fail to file such evidence, the workers' compensation judge shall issue a cease and
9	desist order prohibiting the employer from continuing its business operations until
10	such time as the employer complies with R.S. 23:1168, and all fines issued are paid
11	in full.
12	* * *
13	§1172. Criminal penalties
14	A. Any employer who willfully fails to provide security for compensation
15	required by R.S. 23:1168 shall be subject to a fine of not more than ten thousand
16	dollars two hundred fifty dollars per day that the employer willfully failed to
17	provide security for compensation or imprisonment with or without hard labor for
18	not more than one year, or both such fine and imprisonment. All fines collected shall
19	be deposited in the Office of Workers' Compensation Administrative Fund
20	established in R.S. 23:1291.1(E).
21	* * *
22	§1172.1. Willful misrepresentation by employer; aid or abet; criminal
23	penalties; civil immunity
24	* * *
25	C. Whoever violates any provision of this Section shall be imprisoned, with
26	or without hard labor, for not less than one year nor more than ten years, or fined not
27	more than ten thousand dollars two hundred fifty dollars per day that the employer
28	willfully failed to provide security for compensation, or both. All fines collected

§1171.1. Discontinuance of business; injunction; procedure

1	shall be deposited in the Office of Workers' Compensation Administrative Fund
2	established in R.S. 23:1291.1(E).
3	* * *
4	§1172.2. Unlawful practices
5	* * *
6	D. Whoever violates any provision of this Section shall be imprisoned, with
7	or without hard labor, for not less than one year nor more than ten years, or fined not
8	more than ten thousand dollars two hundred fifty dollars per day that such person's
9	violation of any provision of this Section resulted in failure to properly provide
10	security for compensation, or both. All fines collected shall be deposited in the
11	Office of Workers' Compensation Administrative Fund established in R.S.
12	<u>23:1291.1(E).</u>
13	* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Patricia Smith HB No. 873

Abstract: Provides for an increase in criminal penalties for employers who fail to secure workers' compensation coverage for their employees and those who willfully misrepresent that compensation has been provided. Also requires that all fines collected be deposited into the Workers' Compensation Administrative Fund.

<u>Present law</u> provides that any employer who fails to secure workers' compensation coverage as required by <u>present law</u> shall be liable for civil penalties.

Present law provides a first offense penalty for an employer is \$250 per employee, second or subsequent offenses are \$500 per employee, and all related series offenses have a maximum civil penalty of \$10,000.

Proposed law provides for a maximum civil penalty of \$10,000 for a first offense.

Present law provides that under criminal penalties an employer who is in violation of securing workers' compensation may be fined not more than \$10,000.

Proposed law provides under criminal penalties employers who fail to provide workers' compensation coverage may be fined \$250 dollars per day that the employer willfully failed to provide security for compensation. Also provides all fines collected will be deposited in the Workers' Compensation Administrative Fund.

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<u>Present law</u> provides an employer who willfully misrepresents in writing that he has provided workers' compensation coverage shall be fined not more than \$10,000.

<u>Proposed law</u> provides an employer who willfully misrepresents in writing that he has provided workers' compensation coverage may be fined \$250 dollars per day that the employer willfully failed to provide compensation. Also provides that all fines collected will be deposited in the Workers' Compensation Administrative Fund.

<u>Present law</u> provides that it is unlawful for a person to knowingly make a false statement or knowingly omit or conceal information to obtain workers' compensation coverage. Such actions are punishable by imprisonment, fine, or both.

<u>Proposed law</u> retains <u>present law</u> but provides that the fine shall be \$250 per day for the person's violation of <u>present law</u> and shall be deposited in the Office of Worker's Compensation Administrative Fund.

(Amends R.S. 23:1170(A),1171.1(C)(1),1172(A),1172.1(C), and 1172.2(D))

Summary of Amendments Adopted by House

Committee Amendments Proposed by <u>House Committee on Labor and Industrial</u> <u>Relations</u> to the <u>original</u> bill.

- 1. Made technical changes.
- 2. Restored <u>present law</u> provisions regarding the failure to secure workers' compensation insurance.
- 3. Provided for a change in civil penalties for first offenses.
- 4. Provided for an increase in criminal penalties and removed cap on amount of fine.
- 5. Provided for a fine of \$250 per day for employers who willfully misrepresent or knowingly make fraudulent or misleading oral or written statements that compensation has been provided.
- 6. Provided all fines collected shall be deposited in the Office of Workers' Compensation Administrative Fund.